

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding the  
Implementation of the Suspension of Direct  
Access Pursuant to Assembly Bill 1X and  
Decision 01-09-060.

Rulemaking 02-01-011  
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
SOLICITING COMMENTS ON THE  
CRITERIA FOR NEW LOAD EXCEPTION  
FOR EXISTING PUBLICLY OWNED UTILITIES**

This ruling is issued to solicit comments in reference to implementation of the cost responsibility surcharge (CRS) applicable to municipal departing load (MDL) prescribed in Decision (D.) 03-07-028. In D.03-07-028, adopted July 10, 2003, the Commission determined that a CRS shall be imposed on MDL customers, with specified exceptions. One major exception was made for "new load" of "existing publicly-owned utilities" (POU).

"New load," for purposes of applying the CRS exception, was defined by D.03-07-028 as load that had never been served by a California investor-owned electric utility (IOU), but that was located in territory that had previously been IOU territory and had been annexed or otherwise expanded into by a POU. Qualifying POUs eligible for the CRS exception were defined by D.03-07-028 as "publicly-owned utilities formed and delivering electricity to retail end-use customers before February 1, 2001." (D.03-07-028, p.76 [Conclusion of Law 11].)

D.03-07-028, further states:

“It is not clear from the record exactly which existing publicly-owned utilities would be entitled to exceptions from the CRS from this decision. It is our intent that only those publicly-owned utilities with substantial operations in place as of February 1, 2001 gain such benefit. Conversely, if there are any publicly-owned utilities serving minimal numbers of customers (*e.g.*, under 100) which would technically qualify for CRS exceptions, we would choose to close such loopholes because there is too much chance for disproportionate expansion by such entities, expansion which could not reasonably have been considered by DWR.

“Therefore, we will ask the ALJ and/or Assigned Commissioner to issue a Ruling to develop a record so we can clarify the definition of “existing publicly-owned utility” for these purposes.” (D.03-07-028, pp. 61-62.)

In this Ruling, we therefore solicit comments as a basis to develop comprehensive and final criteria for identifying POU entities whose MDL departing load customers would qualify for exclusion from the CRS. To assist parties’ in preparation of comments solicited by this ruling, we attach hereto a listing of California POU entities as of 2001 extracted from publicly available data on the following Department of Energy website:

[www.eia.doe.gov/cneaf/electricity/page/eia861.html](http://www.eia.doe.gov/cneaf/electricity/page/eia861.html). The Commission does not necessarily endorse the comprehensiveness or accuracy of the listing, but it is provided as a point of departure to facilitate parties’ analysis and identification of eligible POUs whose MDL departing load customers would meet qualifying criteria for CRS exclusion as “new load” consistent with D.03-07-028.

Accordingly, parties’ comments are solicited on the following issues:

1. Should there be a specific size cut-off criterion (*e.g.*, number of customers, load, etc.) in order for an existing POU to qualify for CRS exceptions? Should there be other criteria besides size to determine which existing POUs qualify for “new load” CRS exceptions? If so, specify what

specific size criterion, or other qualifying criteria, should be adopted, with supporting justification consistent with the principles adopted in D.03-07-028.

2. Identify by name and location those POUs that should be considered candidates for the “new load” exception from the CRS based on the Commission’s definition of an “existing POU” set forth in D.03-07-028, and that come within specified criteria as addressed in response to question 1 above.
3. Do any of the POUs identified as candidates whose MDL customers would be eligible for a CRS exception in response to Item 2 above serve only a relatively small number of customers? If so, specify such POUs, and how many customers are served by each?

Opening comments are solicited on the above referenced questions.

Parties will also be provided the opportunity to file a round of reply comments.

In reply comments, parties will have the opportunity to rebut or refute proposed criteria and to challenge any specific POUs identified in opening comments whose customers they believe are *not* appropriate for a CRS exception. In particular, reply comments should address:

Which specific POUs, as identified in parties’ opening comments, serving a small number of customers or otherwise meeting specified criteria, if any, should *not* have a CRS exception for its customers? Please state specific reasons, referencing specific categories of POU or individual POUs, as relevant to your argument, consistent with the principles adopted in D.03-07-028.

After receipt and review of comments, further steps will be taken to adopt a more comprehensive and final set of criteria and principles defining the basis for exclusion from the CRS for qualifying POU “new load.” It is anticipated the record developed through the filed comments will form the basis for a subsequent listing to be published identifying Commission-approved POU

entities whose customers qualify for the “new load” exclusion from the CRS. If anyone believes that the opportunity to comment provided by this ruling is not sufficient, or that evidentiary hearings are required, before the Commission can adopt specified criteria and principles for qualifying POU “new load,” this must be stated in comments in response to this ruling.

**IT IS RULED** that opening and reply comments in response to the above questions are hereby solicited. Opening comments shall be due on August 11, 2003. Reply comments shall be due on August 25, 2003.

Dated July 23, 2003, at San Francisco, California.

/s/ Thomas R. Pulsifer  
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Thomas R. Pulsifer  
Administrative Law Judge

**ATTACHMENT: Retail Sales & Customers of California Public Power Systems, 2001**

Utility	Retail Sales (mWh)	Retail Customers
Los Angeles	22,377,000	1,405,512
Sacramento Municipal Utility Dist	9,347,511	522,954
Imperial Irrigation District	2,711,321	104,563
Santa Clara	2,520,758	48,179
Anaheim City	2,511,542	109,548
Modesto Irrigation District	2,230,459	97,402
Riverside	1,720,653	96,667
Turlock Irrigation District	1,451,272	73,401
Vernon	1,128,038	2,068
Pasadena	1,100,721	59,354
Glendale	1,084,715	83,489
Burbank	1,064,983	51,335
Palo Alto	1,057,975	28,200
Roseville	945,802	39,070
San Francisco City & County of	743,031	14
Redding	671,507	39,658
Lodi	413,600	25,857
Alameda City	383,125	32,765
Colton City	298,030	17,679
Merced Irrigation District	271,153	881
Azusa City	238,071	14,781
Lompoc City	131,784	14,672
Lassen Municipal Utility Dist	129,015	11,203
Banning City	128,047	10,221
Truckee Donner Pub Utility Dist	122,302	11,251
Ukiah City	106,178	7,557
Trinity Public Utilities Dist	75,471	6,558
Healdsburg City	68,945	5,363
Shasta Lake City	66,697	4,082
Needles City	58,788	2,993
Gridley City	28,180	2,284
Tuolumne County Pub Power Agny	25,133	30
Biggs City	10,691	657
Escondido City f	286	1
East Bay Municipal Utility Dist	0	0
Metropolitan Water District	0	0
Kings River Conservation Dist	0	0
Oakdale & South San Joaquin	0	0
California Dept-Water Resources	0	0
Placer County Water Agency	0	0
Yuba County Water Agency	0	0
Oroville-Wyandotte Irrig Dist	0	0
Northern California Power Agency	0	0
Southern California P P A	0	0
MSR Public Power Agency	0	0
Total	55,222,784	2,930,249

\* Municipal

\*\* Utility or Irrigation District

\*\*\* State

**CERTIFICATE OF SERVICE**

I certify that I have this day served a true copy of the original attached Administrative Law Judge's Ruling Soliciting Comments on the Criteria for New Load Exception for Existing Publicly Owned Utilities on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated July 23, 2003, at San Francisco, California.

/s/ Antonina V. Swansen  
Antonina V. Swansen

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.